THE

WEEKLY ENTERTAINER.

For MONDAY, May 28, 1792.

Relation of the Aſſaſſination of M. Theobald Dillon, Mareſchal de Camp, at Liſle, the 29th of April, 1792.

By an Eye Witness.

I Dined at General Theobald Dillon's the day of the expedition at Tournay. In the courſe of the converſation, he many times teſtified his confidence in the good diſpoſition and courage of the troops he commanded. Although I had been for theſe 15 years his intimate friend, it was not until after the orders had been given to the troops, that I knew he was to march the ſame evening.

He quitted me in the afternoon to go to General Daumont; at half paſt ſeven o'clock the troops were under arms; they had the beſt appearance poſſible; a little before nine o'clock he went out at the head of the army, by the gate of Fiſſe. The next day (Sunday, April 29th), at nine o'clock, I went to General Daumont, to aſk him if there was any impropriety in my going to view the army, and if it was not neceſſary to have a paſſport? He replied in the negative.

Madame Dillon teſtified great uneaſineſs for her brother; but he aſſured me that it was without foundation; and from the orders the army had received, an engagement was not likely.

I mounted on horſeback, and departed by the gate of Fiſſe, in order to ſee M. Dillon. At a place near the town I met four dragoons, who as ſoon as they ſaw me made ſigns by their ſabres for me to return; crying that all was loſt:—That the army had been betrayed, and cut in pieces. I begged them not

to ſpread the alarm in the town, but firſt to acquaint General Daumont, and the principal officers of it. They ſoon left me behind. I returned into town with a man without an uniform, who related that his comrade was killed by his ſide: With him was an officer of the National Guards, on a horſe, belonging to one of the artillery carriages, who alſo cried that all was loſt, betrayed, and cut to pieces; but he could not give any detail of particulars.

I took my domeſtic with me, and returned again on foot to the gate of Fiffe. The ſtreet was full of ſoldiers and National Guards, who impeded the paſſage of the cuiraſſiers, who began to enter in crowds with great diſorder. The Swiſs of Dieſback, who guarded the gate, had erected ſome works, and ſtationed patroles on the outſide; in the mean time the cavalry entered, raiſing the cry of treaſon! ariſtocrat! and *à la lanterne!*

The confuſion now became general; many, without knowing who commanded, demanded the head of Rochambeau: I then went to the ſuburbs; the infantry now preſented themſelves, but in ſmall numbers: The road was covered with cavaliers, all crying, treaſon! not one wounded, nor even a horſe; I aſked many officers and ſoldiers news of the General, not one could give me any account of him; an officer of cuiraſſiers ſaid, that he was ſurprized to hear me aſk news of a General who had led them to butchery. The Deputy Marſhal General (M. de V——) ſaid, that M. Dillon had given him orders to charge the cavalry. As ſoon as he perceived the enemy, he found them retiring, and in general confuſion. The ſoldiers informed me it would be imprudent to advance further; that the Auſtrian huſſars preſſed them cloſely; I ſtopped ſome time and advanced again. I had not yet heard the report of a fuſee, nor ſeen a huſſar, nor any perſon that had ſeen one. The road was now crowded with carts of baggage and peaſantry, who fled with their moveables into the town. I again returned; the confuſion was now very great: The cry of *lanterne*, of Rochambeau, of traitor, ariſtocrat; and noiſes from every ſide. The infantry now began to enter, and brought in three or four Auſtrians (one in a grey uniform, ſtriped with green, and the others in round frocks). A hundred ſteps from the gate, they hung an officer of engineers, M. Berthois, ſuſpended by the feet with cords. I ſaw more than twenty ſhots through his body, and a horſe grenadier, as I was told, gave him a cut on the head with his ſabre, and fired a piſtol at his breaſt. Then the National Guards and infantry took poſſeſſion of him. I ſaw

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one of the Auſtrian priſoners killed, and two or three who were diſpatched, trampled under foot, and their bodies run through.

I heard the ridicule and the barbarous ſhouts of the ſoldiers, and ſaw them amuſe themſelves in ſtriking the dead bodies with their hands. They were crowded in a wheelbarrow, with the officer of engineers. I ſhudder at the ſight. The municipal officers arrived with a cart, in which they placed the dead bodies, and continued to abuſe them. It is two o'clock, and I have not been able to hear the leaſt news of the General, or the action. Not a wounded man has yet appeared, and, among all the ſoldiers, not one ſeems to have been in a battle, except a foot ſoldier, who had received ſome ſhot through his hat.

I remained in the ſtreet to obſerve the diſpoſitions of the people. About four o'clock I went towards Fiffe-gate. In the entrance of the ſtreet the agitation was great, and the howling moſt terrible. At laſt I heard the cry of "He's coming, he's coming, to the lantern." I aſked, with a trembling voice, "Who ?"—"Dillon, (they anſwered) the traitor, the ariſtocrat; we are going to tear him to pieces, he and all that belong to him.

"Rochambeau muſt alſo periſh, and all the nobility in the army. Dillon is coming in a cabriole; his thigh is already broken, let's go and finiſh him." The cabriole ſoon appeared; the General was in it, without a hat, with a calm and firm look; he was eſcorted by four horſe-guards; he had hardly paſſed through the gate, when more than 100 bayonets were thruſt in the cabriole amidſt the moſt horrid ſhouts! The horſe-guards made uſe of their ſabres, it is true, but I don't know whether it was to defend themſelves, or to protect the General. The man who drove the cabriole diſappeared, the horſe plunged, and no bayonets had yet been fatal, when a ſhot was fired into the carriage, and I think this killed M. Dillon, for I never ſaw him move afterwards; he was taken from the carriage and thrown into the ſtreet, when they trampled upon his body, and ran a thouſand bayonets through it. I neither heard from him complaints or groans.

Between ſeven and eight o'clock I went to the market place, where a great fire was lighted, in which his body was thrown. —French ſoldiers danced round the burning body of their General; this barbarous ſcene was intermixed with the moſt ſavage howlings. Parties of Swiſs were paſſing and repaſſing in good order during this atrocious ſcene, with the greateſt indignation painted in their countenance. The ſiſter of the

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General was alſo threatened; ſhe changed her abode four times, being warned of her danger; nobody dared to ſhelter her in their houſes; however, the night was paſſed in tranquillity.

I have been lucky enough to ſave her from theſe cannibals, and the next day ſhe ſet off for Paris.

This is what I have ſeen, and what I am ready to atteſt before any tribunal.

N. B. The original of this has been depoſited at a Notary's, and a faithful copy delivered to the National Aſſembly, ſigned by the author. If any perſon ſhould doubt the authenticity of the above, they may addreſs themſelves to James Migneret, Jacob-ſtreet, Paris, or to the family of M. Dillon, who engage to anſwer them.

Unanimous Opinion of the Judges [except Lord Loughborough] upon the ſeveral Queſtions put to them upon the ſecond Reading of the Bill to remove Doubts reſpecting the Functions of Juries in Caſes of Libel, 27th of April, 1792, as delivered by the Lord Chief Baron of the Court of Exchequer.

My Lords,

THE Judges have taken the queſtions, ſeven in number, which your Lordſhips have been pleaſed to propoſe to them, into their conſideration; they have conferred together, and have agreed upon anſwers, which I am now to ſubmit to your Lordſhips.

Your Lordſhips' firſt queſtion is: "On the trial of an information or indictment for a libel, is the criminality or innocence of the paper ſet forth in ſuch information and indictment, as the libel, matter of fact, or matter of law, where no evidence is given for the defendant?"

Preliminary to all which we have to offer to your Lordſhips, we ſtate, as a fundamental principle, that the general criminal law of England is the law of libel; and that the very few particularities which occur in legal proceedings upon libel, are not peculiar to the proceedings upon libel, but do or may occur in all caſes, where the *corpus delecti* is eſpecially ſtated upon the record; the caſe of an indictment for publiſhing a forged promiſſory note may be put as a pregnant inſtance.

The matter of your Lordſhips' firſt queſtion has no particular application to libel.

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We anſwer, that the criminality or innocence of *any act done* (which includes any paper written) is the reſult of the judgment which the law pronounces upon that act, and muſt therefore be in all caſes, and under all circumſtances, matter of law and not matter of fact; and this, as well where evidence is given, as where it is not given for the defendant: The effect of evidence given for the defendant, as to this queſtion, being nothing more than to introduce facts or circumſtances into the caſe, which the proſecutor had left out, upon which it will ſtill be for the law to pronounce whether the act done be criminal or innocent.

Your Lordſhips ſecond queſtion is: "Is the truth or falſehood of the written or printed paper material, or to be left to the Jury, on the trial of an indictment or information for a libel; and does it make any difference in this reſpect, whether the epithet *(falſe)* be or be not uſed in the indictment or information?"

The queſtion conſiſts of two branches.

Our anſwer to the firſt branch of this queſtion is, That the truth or falſehood of a written or printed paper is not material, or to be left to a Jury upon the trial of an indictment or information for a libel.

We conſider this doctrine as ſo firmly ſettled, and ſo eſſentially neceſſary to the maintenance of the King's peace, and the good order of ſociety, that it cannot now be drawn into debate.

If it be aſked, why the word "*falſe*" is to be found in indictments or informations for libel? We anſwer, that we find it in the ancient forms of our legal proceedings, and therefore that it is retained; but that it hath in all times been the duty of Judges, when they come to the proof, to ſeparate the ſubſtance of the crime from the formality with which it is attended, and too frequently loaded, and to confine the proof to the ſubſtance.

The epithet "*falſe*," is not applied to the propoſitions contained in the paper, but to the aggregate criminal reſult—libel. We ſay, *falſus libellus*, as we ſay *falſus proditor* in high treaſon.

In point of ſubſtance, the alteration in the deſcription of the offence would hardly be felt, if the epithet were *verus* inſtead of *falſus*.

In the action for libel, the plaintiff is not put to prove the matter of the libel to be falſe, which is deciſive to ſhew that the falſehood is not part of the ſubſtance of the complaint; and though the defendant may inſiſt in his defence, and may prove that the matter of the libel is true, it is not done in the way of contradicting what is aſſerted by the plaintiff, for then

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it might be done under the general iſſue: Whereas, if the defendant means to inſiſt that the matter of the libel is true, he muſt plead it by way of juſtification. As between him and the plaintiff, ſeeking to recover damages for the private injury, the truth of the matter of the libel is a bar to the action for damages; the crime, and conſequently the *falſus libellus*, remaining ſtill in full force againſt him.

The ſecond branch of the queſtion is: Does it make any difference in this reſpect, *i. e.* in reſpect of the materiality of the truth or falſehood, or its being to be left to the Jury, whether the epithet "*falſe*," be or be not uſed in the indictment or information?"

Our anſwer will be very ſhort. It can make no difference in this reſpect. We are not called upon to give any opinion, and we deſire to be underſtood not to give any opinion as to the difference in any other reſpect which the omiſſion of a formal epithet, in an indictment or information, may make.

Your Lordſhips' third queſtion is: "Upon the trial of an indictment for a libel, the publication being clearly proved, and the innocence of the paper being as clearly manifeſt, is it competent and legal for the Judge to direct or recommend to the Jury to give a verdict for the defendant?"

We anſwer, that upon the trial of an indictment for a libel, the publication being clearly proved, and the innocence of the paper being as clearly manifeſt, it is competent and legal for the Judge to direct or recommend to the Jury to give a verdict for the defendant.

But we add, that no caſe has occurred in which it would have been, in ſound diſcretion, fit for a Judge, ſitting at *Niſi Prius*, to have given ſuch a direction or recommendation to the Jury.

It is a term in the queſtion, that the innocence ſhall be clearly manifeſt. This muſt be in the opinion of the Judge: but the ableſt Judges have been ſometimes decidedly of an opinion which has, upon further inveſtigation, been diſcovered to be erroneous; and it is to be conſidered, that the effect of ſuch a direction or recommendation would be, *unneceſſarily* to exclude all further diſcuſſion of the matter of law, in the Court from which the record of *Niſi Prius* was ſent, in Courts of Error, and before your Lordſhips in the *dernier* reſort.

Very clear indeed, therefore, ought to be the caſe in which ſuch a direction or recommendation ſhall be given. In a criminal caſe, which is in any degree doubtful, it muſt be a very great relief to a Judge and Jury, and a great eaſe to them in

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the administration of criminal justice, to have the means of obtaining a better and fuller investigation of the doubt, upon the solution of which a right verdict, or a right judgment, is to depend.

A special verdict would in many cases be the only means, where the offence is described by some one or two technical terms comprehending the offence, the law and the fact combined: such as the words, "feloniously did steal." The combination must be decomposed by a special verdict, separating the facts from the legal qualities ascribed to them, and presenting them in detail to the eye of the Judge, to enable him to declare, whether the legal quality ascribed to them, be well ascribed to them or not.

There may be a special verdict in cases where doubts arise on the matter of law, but it is not necessary in all cases. In some criminal proceedings (the proceedings in libel, and the publication of forged papers, for instance) some of the facts are detailed in the indictment, and if the doubt in law should happen to arise out of the fact so detailed, we say it is upon the record. The question might have been discussed upon demurrer without going to a Jury at all; and after verdict it may be discussed on a motion in arrest of judgment. In such cases a special verdict is not necessary: the verdict "Guilty," will have the effect of a special verdict without the expence and delay of it, establishing all the facts, and leaving the question of law open to discussion.

There are three situations in which a defendant, charged with a libel, may stand before a Judge and Jury in a Court of *Nisi Prius*. First, The matter of law may be doubtful; in that case there ought to be a special verdict, or a verdict which shall operate as a special verdict. Secondly, The case may, in the opinion of the Judge, be clear against the defendant. If the verdict is special, in form or in effect, he has no reason to complain; his case comes before the Court from which the record is sent, without the prejudice of an authority against him. The third situation is, That the opinion of the Judge may be clear in favour of the defendant. In that case, whenever it shall happen, we have offered it as our opinion, that it will be competent and legal for the Judge to direct an acquittal.

Your Lordships' fourth question is: "Is a witness, produced before a Jury in a trial as above by the plaintiff, for the purpose of proving a criminal intention of the writer, or by the defendant, to rebut the imputation, admissible to be heard as a competent witness in such trial before the Jury?"

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This question is put so generally, that we find it impossible to give a direct answer to it.

The criminal intention charged upon the defendant in legal proceedings on libel is generally matter of form, requiring no proof on the part of the prosecutor, and admitting of no proof on the part of the defendant to rebut it.

The crime consists in publishing a libel; a criminal intention in the writer is no part of the definition of the crime of libel at the common law. "He who *scattereth firebrands, arrows* and *death*," (which if not an accurate definition, is a very intelligent description of a libel,) *is ea ratione* criminal; it is not incumbent on the prosecutor to prove his intent, and on his part he shall not be heard to say, "*Am I not in sport?*" But inasmuch as a criminal intention may conduce to the proof of the publication of all libels; and inasmuch as that criminal intention is of the substance of the crime of libel in some cases by statute; cases may be put, where a witness is competent and admissible to prove the criminal intention on the part of the prosecutor; and it may be stated as a general rule, that in all cases, where a witness is competent and admissible to prove the criminal intention, a witness will also be competent and admissible to rebut the imputation.

Your Lordships' fifth question is: "Whether, upon the trial of an indictment, for sending a threatening letter, the meaning of the letter set forth in the indictment be matter of law or of fact?"

We find ourselves embarrassed by the terms in which this question is proposed to us.

We find no difficulty in answering, that the exposition of the words of the letter, set forth in an indictment for sending a threatening letter, would belong to the Court, either on a demurrer, or in an arrest of judgment; and we have no difficulty in going a step further, and saying, that if the Jury, upon the trial of such an indictment, were to find a letter according to its tenor, it would be for the Court to expound the letter.

And whether the letter (the sense of it being thus ascertained) be a threatening letter within the meaning of the law, is answered by our law to the first question. This we state distinctly to be matter of law; it is the judgment of the law, pronouncing whether the paper be criminal or innocent.

But your Lordships ask us, "Whether the sense of the letter be matter of law or of fact?"

We find a difficulty in separating the sense of the letter from the letter; the paper without the sense is not the letter.

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Whether there exiſts ſuch a letter, is doubtleſs matter of fact; as much as, whether it was ſent to the proſecutor of the indictment.

It is alſo matter of fact, whether an act of Parliament, public or private, exiſts. And the ſame may be ſaid of every other writing, from records of the higheſt nature down to any ſcrap of paper wherein words are written which can be qualified with crime or civil obligation.

This goes no way towards aſcertaining what belongs to a Jury in an indictment for ſending a threatening letter, to which we apprehend your Lordſhips' queſtion was intended to point.

The exiſtence of a public act of Parliament, your Lordſhips know, is not ſubmitted to a Jury at all; private acts and records may be *ſub modo* other inſtruments and papers are; but all, without exception, are expounded by the Judges, and the legal effect of them declared by the Judges.

This does not reſt merely on the authority of lawyers; in the nature of things it muſt be, that the Judges muſt expound or recollect the ſenſe of the paper, in order to their declaring the operation of it in law.

The ſenſe of a threatening letter, or of any other words reduced into writing, is nothing more than the meaning which the words do, according to the common acceptation of words, import, and which every reader will put upon them. Judges are in this reſpect but readers. They muſt read and underſtand, before they can pronounce upon criminality or innocence, which it belongs to them to do. It is a neceſſary and inſeparable incident to their juriſdiction. If they could reſort to a Jury to interpret for them in the firſt inſtance, who ſhall interpret the interpretation, which, like the threatening letter, will be but words upon a paper?

We ſhall not be underſtood to be ſpeaking of that ſenſe of a paper which is to be collected from matter *dehors* the paper, which, in legal proceedings, muſt be ſtated by way of averment; which averment would be to be eſtabliſhed in point of fact, before the Judges could proceed to conſtrue a paper. On a demurrer, or on motion in arreſt of judgment, theſe averments would ſtand confeſſed upon the record. If the general iſſue is pleaded, they are to be found by the Jury. Judges have no means of knowing matters of fact *dehors* the paper, but by the confeſſion of the party, or the finding of the Jury; but they can collect the intrinſic ſenſe and meaning of a paper, in the ſame manner as other readers do; and they can reſort to grammars and gloſſaries, if they want ſuch aſſiſtance.

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These principles lead to the same conclusion for Juries as for Judges, in all points belonging to threatening letters, or to any other series of words reduced into writing, which fall within the province of Juries. For instance, upon a general issue on an indictment for sending a threatening letter, a Jury is to inquire, whether such a paper as the paper charged in the indictment exists? They must read, or hear read, and understand the paper charged, and the paper produced to them in evidence, in order to their finding that the paper charged does exist. The Jury cannot know, that they are the same papers, without comparing both the words and the sense: but, when the Jury have read, and sufficiently understood, the paper charged and the paper produced, so as to be enabled to pronounce that they are the same papers; when the averments have been examined and found to be true; when the context (if there be a context not set forth) has been seen and understood, and found not to alter the sense of the paper produced, and to put a different sense upon it than that which the paper charged imports; and when the sending of the supposed threatening letter is found as charged; then all enquiry before the Jury ends; the rest is matter of legal conclusion.

Your Lordships' sixth question is: "Whether, on the trial of an indictment for high treason, the criminality or innocence of letters or papers as set forth as overt acts of treason, or produced as evidence of an overt act of treason, be matter of law or of fact?"

We have said, in our answer to the first question, that in all cases, and under all circumstances, the criminality or innocence of an act done is matter of law, and not of fact.

We find nothing in the two cases now put, which should lead us to narrow the generality of that proposition, or to except either of those cases out of it.

But that we may not be misunderstood, we add, that this opinion does not go to the length of taking from the Jury the application of the evidence to the overt act of which it is evidence. It only tends to fix the legal character of it in the only way in which it can be fixed. And we take this occasion also to observe, that we have offered no opinion to your Lordships which will have the effect of taking matter of law out of a general issue, or out of a general verdict.

We know that it is often so combined with both, as to be inseparable from them; and we disclaim the folly of endeavouring to prove, that a Jury, who can find a general verdict, cannot take upon themselves to deal with matter of law arising in a general

general iſſue, and to hazard a verdict made up of the fact, and of the matter of law, according to their conception of the law, againſt all direction by the Judge.

Our aim has been to trace the boundary line between matter of law and fact, as diſtinctly as we could. We believe that this is all that is neceſſary to be known. We have found Jurors in general deſirous of keeping within their province, which is to examine into matter of fact, and cordially diſpoſed to take their directions in matter of law, from thoſe whoſe education and habits enable them to declare the law, and to whom the law and conſtitution of the country have committed that important truſt.

Your Lordſhips' laſt queſtion is: "Whether, if a Judge on a trial, on an indictment or information for a libel, ſhall give his opinion on the law to the Jury, and leave that opinion, together with the evidence of the publication, and the application of the inuendos to perſons and things, to the Jury, ſuch directions would be according to law?"

If we do not miſunderſtand this queſtion, it is ſubſtantially anſwered in our anſwer to the third queſtion.

We mean to anſwer this queſtion in the affirmative; but, that we may be clearly underſtood, we deſire to be permitted in our anſwer to ſubſtitute the words "declare the law;" inſtead of "give his opinion of the law;" and the word "declaration" inſtead of "opinion," where the word "opinion" occurs again in the queſtion: our anſwer will then ſtand thus:

"If a Judge on a trial on an indictment or information for a libel ſhall declare the law to the Jury, and leave that declaration, together with the evidence of the publication, and the application of inuendoes to perſons and things, to the Jury, ſuch direction would be according to law."

If by the words, "leave that opinion to the Jury," is meant in any manner to refer to the Jury the conſideration of what the law is, in any view of the particular caſe in evidence, we are of opinion, that ſuch a direction would not be according to law; conceiving the law to be, that the Judge is to declare to the Jury what the law is; and conceiving that it is the duty of the Jury, if they will find a general verdict upon the whole matter in iſſue, *to compound that verdict of the fact as it appears in evidence before them, and of the law as it is declared to them by the Judge.*

We prefaced our anſwers with ſtating, that the general criminal law of England was the law of libel. We conclude what we have to offer to your Lordſhips with ſtating, that the line marked out by the law for the conduct of a Jury giving a general verdict, has an

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universal application to general verdicts on general issues, in all cases civil and criminal; for we cannot distinguish between the office and authority of a Jury in civil and criminal cases, whatever difference there may be as to their responsibility. We desire to put your Lordships in mind, that it hath been the modern policy to bring almost all questions upon men's dearest and most valuable rights, to be decided on a general issue; and it will be for your Lordships' consideration, whether the line we have pointed out, which we take to be established in law and in reason, is not a great and essential security to the life, liberty, and property of all the King's subjects, from the highest to the lowest.

Some Account of the late Thomas Day, Esq. Author of Sandford and Merton.

(*Continued from Page* 505.)

ALTHOUGH it be the duty of every citizen, in a free state, to watch over the conduct of Government, yet this is more peculiarly the province of independent country gentlemen, whose interest can never be different from that of the community in general. The political transactions in England, during the American war, were too interesting to pass unnoticed by a person possessed of any portion of publick spirit. Mr. Day's love of liberty, and inflexible regard to the rights of mankind, induced him to vindicate the Americans in their resistance to the imposition of taxes without their consent, and in their subsequent efforts to emancipate themselves from the subjection to which our Government attempted by force to reduce them. His attachment to his native country was not of that selfish and illiberal kind, which excused or palliated injustice to others, under pretence of national interest. Although no man ever loved his country more, or was more perfectly English, in the best sense of that name, yet he was more firmly attached to justice and liberty than to his native soil. He could not therefore forbear to give vent to his indignation at the conduct of Government; which he did in two animated poems; the first entitled, "The Devoted Legions," and the second, "The Desolation of America."

The first of these poems is addressed to Lord George Germaine, the Secretary of State, who directed the military operations, and to the Commanders of the Forces against America; and in its obvious allusions to the calamities which might

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be expected from waging an unjust civil war, the prophetick pretensions of poets were confirmed by successive defeats, and the capture of two entire armies.

The subject of the poem called The Desolation of America, was an attempt, worthy only of the same Secretary, to effect, what fair and open war could not—the subjugation of America, by burning her towns and villages, and by desolating her coasts with an unavailing cruelty, contrary to the laws of war, as well as of humanity, and disgraceful to a civilized nation.

Upon the first opening of a prospect of peace with America, Mr. Day, influenced by the same motives which had induced him to write these poems, and by the accumulated distresses which a most expensive war then poured on our own nation, addressed the publick in a pamphlet, entitled, "Reflections on the present State of England, and on the Independence of America;" in order to warn his countrymen against being still misled by vain and delusive hopes of conquest, from embracing the opportunity, which then presented itself, of putting an end to a war founded on injustice and tyranny, and accompanied with such extraordinary calamities. This pamphlet, which has been pronounced to be one of the best political productions in our language, contains a chain of convincing arguments expressed in that fervid style of eloquence, which at once breathes the sincerity of the author, and communicates by a kind of sympathy, conviction to the reader.

In a subsequent publication, addressed to the Earl of Shelburne,* he vindicates and praises that minister for having made peace with America and France; without indeed entering into any detail, or discussion of the several articles of the peace, but on the general and important ground of the necessity of terminating a ruinous war, of which the original object, the subjugation of America, had been long abandoned even by its first abettors, as impracticable.

In the commencement of the American war, it must be acknowledged, with humiliation to the British nation, that the greater part of the people had supported the crown in its attempt to subdue America; which they considered as a subject state destined for their benefit and dominion; and they had yielded to the delusive hopes of conquest repeatedly held out to them by the Minister; yet when succeeding calamities had dissipated

* This letter was published, and also several others, under the title of Letters of Marius. They are contained in Stockdale's Collection of Mr. Day's Political Tracts, 8vo.

ſipated theſe dreams of ambition, and when diſgrace and diſtreſs had humbled the pride of the people, the voice of the ſoberer and wiſer part of the nation began to be heard, calling out for peace, and for a reformation of the abuſes, which had crept into the conſtitution, though contrary to its ſpirit. Accordingly aſſociations were formed, in different counties, of the moſt independent and publick ſpirited men, in order to obtain a redreſs of grievances, and eſpecially a reform in the repreſentation of the people in Parliament; the inequality and imperfection of which had principally enabled the Miniſter, by a laviſh corruption, to gain the ſupport and countenance of the legiſlature in carrying on the moſt ruinous and unjuſt war, as well as the moſt diſgraceful, that ever ſullied the Britiſh annals.

Mr. Day could not but join this honeſt band of patriots; and he ſoon diſtinguiſhed himſelf among them by his zeal and abilities. He attending ſeveral of the meetings of freeholders in different counties where he held eſtates, Eſſex, Surry, and Berks; and he then diſplayed the talent, which he poſſeſſed in a ſingular degree, of ſpeaking in publick with facility, copiouſneſs, and preciſion, and with the ſame maſculine and impreſſive eloquence that marks his political writings.‡

‡ Several of theſe ſpeeches were printed and diſtributed by the Society for Conſtitutional Information.

(To be continued.)

The LESSON *of* MISFORTUNE.

A MORAL TALE.

[From the French of the celebrated M. Marmontel.]

(Continued from Page 508.)

"HERE,' ſaid he, ' are five hundred louis d'ors, ariſing from three years ſavings, and a paper ſigned by my hand that will indicate the uſe to which I wiſh them to be put. It was ſigned Oliver Salvary. How great was my ſurpriſe to find it was deſtined for nothing but objects of luxury! A thouſand crowns to a jeweller; a thouſand to a cabinet-maker; a hundred louis for millinery; as much for laces, and the reſt to a perfumer.

" I ſurpriſe you,' ſaid he; ' Yet you do not ſee all. I have already paid, thank Heaven, three hundred louis for the like

fooleries;

fooleries; and I have much yet to pay before every thing will be discharged. Must I tell it you, Sir? alas! I am a disgraced man in my own country, and I am labouring here to wipe away a stain I have brought upon my name. In the mean while, I may die; and die insolvent. I wish to make you a witness of my good intentions, and the efforts I am making to repair my misfortunes and my shame. What I am going to relate to you may be considered as my testament, which I request you to receive, that, in case of my death, you may take the necessary pains to restore my character.' 'You will live long enough,' said I; 'you will have time to efface the remembrance of the misfortunes of your youth. But, if, in order to make you easy, you want nothing but a faithful witness of your sentiments and conduct, I am better informed on that subject than you imagine, and you may with all confidence lay open your heart to me.'

" I begin then,' said he, smiling, 'by confessing, that my misfortunes are entirely owing to myself, and that my errors are without excuse. My profession was one of those that required the strictest probity; and the first law of that probity is, to dispose of nothing that is not our own. I made calculations; but those calculations were erroneous. My imprudence was not the less criminal. But I will tell you how I was involved in it.

" A reputable family, an unsullied reputation, the esteem of the public, transmitted from my ancestors to their children; my youth; some success in which I had been much favoured by circumstances; all seemed to promise that I should make a rapid fortune by my profession. This was the very rock on which I split.

" Monf. d'Amene, a man of fortune, and who considered my prospects as infallible, ventured to build his daughter's happiness upon these delusive hopes. He offered me her hand; and as soon as we were acquainted, we formed a mutual attachment.—She is no more! Were she still living and I were again to choose a wife, she alone should be the object of my choice. Yes, my dearest Adrienne, I would choose thee from among a thousand. Others might have more beauty: But who can ever equal thy worth, thy tenderness, thy charming temper, thy good sense, and thy amiable candour?"

" In this address, his eyes, raised to Heaven, as if looking for her spirit, were suffused with tears. 'Impute not,' he continued, 'impute not to her any thing that I have done. The innocent cause of my misfortune, she never even suspected it.

it. And in the midst of the illusions with which she was surrounded, she was far from perceiving the abyss to which I was leading her, over a path strewed with flowers. Enamoured of her before I married her, more enamoured after possession, I thought I could never do enough to make her happy; and compared to my ardent love for her, her timid tenderness, and her sensibility, which were tempered by modesty, had an appearance of coldness. To make myself beloved as much as I loved her —Shall I declare it?—I wanted to intoxicate her with happiness. Good Heavens! what passion ought not a man to indulge with distrust, if it be dangerous to devote himself too much to the desire of pleasing his wife?

"An elegant house, expensive furniture, whatever fashion and taste could procure in the article of dress, to flatter in young minds the propensities of self-love, by affording new splendour or new attractions to beauty; all this anticipated my wife's desires, and poured in upon her, as it were, spontaneously. A select society, formed by her own inclination, shewed her the most flattering attentions, and nothing that could render home agreeable was ever wanting.

"My wife was too young to consider it necessary to regulate and reduce my expences. Ah! had she known how much I risked to please her, with what resolution would she not have opposed it? But as she brought me a handsome fortune, it was natural for her to conclude, that I was also in affluent circumstances. She imagined, at least, that my situation in life allowed me to put my establishment upon a genteel footing. She perceived nothing in it that was unsuitable to my profession; and, on consulting her female friends, all this was highly proper, all this was no more than decent. Alas! I said so too, and Adrienne alone, in her modest and sweetly ingenuous manner, asked me if I conceived it necessary to incur such expences to render myself amiable in her eyes. 'I cannot be insensible,' said she, 'to the pains you take to render me happy; but I should be so without all that. You love me, and that is enough to excite the envy of these young women. What satisfaction can you find in increasing it, by wishing me to eclipse them? Leave them their advantages, which I shall not envy. Let the frivolity of taste: Let whim and vain superfluity be their delight. Love and happiness shall be mine.'

"Her delicacy, though it gave her new charms, did not alter my conduct; and I answered, that it was on my own account that I complied with custom; that what appeared as luxury to her, was nothing but a little more elegance than ordinary;

ordinary; that good taſte was never expenſive, and that whatever I might do, I ſhould never tranſgreſs the bounds of propriety. I deceived her. I deceived myſelf; or, rather, I baniſhed all reflection. I was ſenſible that I was living beyond my preſent income; but in a ſhort time the emoluments of my profeſſion would make good the deficiency; and, in the mean while, every one approved of my affectionate care to make my wife happy. Could I do leſs for her? Could I even do enough? This was the public voice. At leaſt it was the language of our friends. My father-in-law looked with concern upon theſe anticipated expences, upon this emulation of luxury, which ruins, ſaid he, the greateſt fortunes. He expreſſed his diſapprobation of it with ſome degree of ſeverity. I calmly anſwered, that this emulation ſhould never lead me into any indiſcretion, and he might ſafely depend upon my prudence. I have ſince learnt what an impreſſion this manner of reſpectfully evading his advice, made upon his mind, and what bitter reſentment it produced.

"The moment of my becoming a father drew nigh; but this moment, which promiſed to be the happieſt I ever had experienced, proved to be the moſt fatal. It deprived me both of the mother and the child. This ſtroke plunged me into an abyſs of ſorrow. I will not tell you how heart-breaking it was. None but thoſe who experience ſuch ſorrows can imagine what they are.

"I was ſtill in the height of my affliction, when my wife's father ſent his notary with the information, accompanied with a few words of ſlight condolence, that the writings were drawn up to transfer back into his hands the fortune* I had received from him. Indignant at this indecent precipitation, I anſwered that I was quite prepared; and the next day the fortune was returned. But the jewels that I had given his daughter, and the other articles of value for her own particular uſe, became alſo his property. He had a legal right to them. I repreſented the inhumanity of requiring me, after eighteen months marriage, to ſubmit to ſo ſevere a law; but he inſiſted upon his right with all the impatience of a greedy claimant. I ſubmitted; and this ſevere exaction made ſome noiſe in the world. Then did the envy my happineſs had excited, haſten to puniſh me for my ſhort-lived felicity, and, under the diſguiſe of pity, took great care to divulge my ruin, which it ſeemed to deplore. My friends

* By the laws of France on the death of the mother and iſſue, her fortune reverts back to her family.

friends were less zealous to serve, than were my enemies to injure me. They agreed that I had been too much in haste to live away. They were very right, but they were so too late. It was at my entertainments that they should have made such observations. But you, Sir, who know the world, know, with what indulgence spendthrifts are treated until the period of their ruin. Mine was now made public, and my creditors, being alarmed, came in crowds to my house. I was determined not to deceive them, and, making them acquainted with my situation, I offered them all that I had left, and only required them to give me time to discharge the rest. Some were accommodating; but others, alleging the wealthy circumstances of my father-in-law, observed, that he was the person who ought to have given me indulgence, and that in seizing the spoils of his daughter, it was their property he had plundered. In a word, I was reduced to the necessity of escaping from their pursuits by suicide, or of being shut up in a prison.

"This night, Sir, which I passed in the agonies of shame and despair, with death on the one hand, and ruin on the other, ought to serve as an eternal lesson and example. An honest and inoffensive man, whose only crime was his dependence upon slight hopes; this man hitherto esteemed and honoured, in an easy and sure way to fortune, all on a sudden branded with infamy, condemned either to cease to live, or to live in disgrace, in exile, or in prison; discountenanced by his father-in-law, abandoned by his friends, no longer daring to appear abroad, and desirous of finding some solitary and inaccessible retreat that could conceal him from pursuit. It was in the midst of these horrible reflections, that I passed the longest of nights. Ah! the remembrance of it still makes me shudder! and neither my head nor my heart have yet recovered the shock I felt at this dreadful reverse of fortune. At last, this long conflict having overcome my spirits, my exhausted strength sunk into a calm still more dreadful. I considered the depth of the abyss into which I had fallen; and I began to conceive the cool resolution of putting an end to my existence.

"Let me weigh," said I, "my last determination. If I submit to be dragged to prison, I must perish there disgraced, without resource and without hope. It is doubtless a thousand times better to get rid of an insupportable life, and to throw myself upon the mercy of God, who will perhaps pardon me for not being able to survive misfortune combined with dishonour. My pistols were cocked, and lay on the table, and as I fixed my eyes upon them, nothing appeared to me more easy than to

put

put an end to every thing. But, ah! how many villains have done the ſame! How many worthleſs minds have poſſeſſed the ſame deſperate courage! And what can waſh away the blood in which I am going to imbrue my hands! Will my infamy be the leſs inſcribed upon my tomb, if, indeed I am allowed a tomb? And will my name, ſtigmatized by the laws, be buried with me? But what am I ſaying? Wretch that I am! I am thinking of the ſhame, but who is to expiate the guilt? I want to ſteal out of the world; but when I ſhall ceaſe to exiſt, who will make reſtitution to thoſe I have injured? Who will aſk forgiveneſs for a young madman, the ſquanderer of wealth that was not his own? Ah, let me die, if I can no longer hope to regain that eſteem which I have loſt! But is it not poſſible, at my age, with labour and time, to repair the errors of my youth, and to obtain pardon for my misfortune? Then reflecting upon the reſources that were left me, if I had the fortitude to contend with my ill fate, I fancied I ſaw at a diſtance my honour emerging from behind the cloud that had obſcured it. I fancied I ſaw a plank placed at my feet to ſave me from ſhipwreck, and that I beheld a friendly port at hand ready to receive me. I retired into Holland; but before I ſet off, I wrote to my creditors, informed them that having given up all I had left in the world, I was ſtill willing to devote my whole life to labour for their benefit; and entreated them to have patience.

(To be concluded in our next.)

Anſwer, by William Stephens junior, of St. Hillary, to Fidelio's Charade, inſerted February 6.

PUT $z = x + y$ and $r = xy$, put alſo a and b = the given known quantities, we ſhall then have $z^3 - 3rz = az^2 - 2ar$ and $z^2 - 2r = bz$, by exterminating r &c. we have $z^2 - 3bz + 2ab = 0$, a quadratic, from which is readily had $z = 84$, hence $r = 1748$. Now we have $x + y = 84$, and $xy = 1748$, from the firſt of theſe $y = 84 - x$, which put for y in the other, we have $x^2 - 84x + 1748 = 0$, ſolved $x = 46$, hence $y = 38$.

Anſwer, by T. Giles, of Bridgewater, to Philagathus's Charade, inſerted March 12.

BRAVE HUMBERSTONE your parts, Sir, will explore,
Who loſt his life on India's ſultry ſhore;

Whoſe martial deeds will firm for ages ſtand,
The pride and glory of the Britiſh land.

‡*‡ We have received the like anſwer from S. Shapton, of Awliſcombe; Amico Crewkernſienſis; W. Harris, Dartington; W. Brewer, and Abſalom Apſey, of Taunton; and T. Sparkes junior, of Exeter.

Anſwer, by T. Whibby, of South Petherton, to R. Tucker's Rebus, inſerted March 19.

I Think your rebus I've found out,
'Tis HARPSICHORD without a doubt.

*** We have received the like anſwer from T. Gill jun. of Stythians; T. Taylor, Bickington; Peter Lyttleton, of Tywardreath; W. Baker, Totnes; J. Duckham, Taunton; W. R. of Treneague; J. Collins, Uffculm; R. H. of Creed; W. Stephens junior, St. Hillary; J. Sellwood, of Stockland-ſchool; S. Hill, Dawliſh; A. Pinn, Exmouth; T. Sparkes, junior, Exeter; and J. Bulgin, of Caſtle Carey.

An ANAGRAM, *by T. Taylor, of Bickington.*

A Song of praiſe if you tranſpoſe,
A well-known ſea-plant you'll diſcloſe.

A REBUS, *by T. Whibby, of South Petherton.*

A Rich Egyptian king firſt bring to view;
That giant next whom great Hercules ſlew;
An eaſtern title now I'd have you name;
And next a Britiſh officer of fame;
And now a grandſon unto Iſrael's king;
Likewiſe to view a royal duke pray bring;
A baniſh'd king, for cruelties, explain;
And next that beggar by Ulyſſes ſlain;
A rural deity now bring to light;
And laſtly Mercury's ſon who loſt his ſight.
The initials rightly join'd I warrant then you'll find,
A bird whoſe ſweet harmonious note doth often ſooth my mind.

An

An ENIGMA, *by J. K. C. near Wells.*

NEAR purling ſtreams and riv'lets gay,
Where warblers ſing and lambkins play,
And wanton fiſhes ſporting glide,
To meet the clear and ambient tide,
Or near the ſweet embowering grove,
Where tender lovers muſing rove,
My lovely face, as poets ſing,
Appears to greet all-cheering ſpring.
In various colours richly dreſs'd,
I'm often by the fair careſs'd;
And frequently more favours gain
Than all her lovers can obtain;
Yet I'm no miſchief making elf,
Who ne'er lov'd aught beſides himſelf;
Nor one who takes delight to tell
What I enjoy with beau and belle;
I keep their ſecrets, firm to truth,
And often aid the love-ſick youth,
When he prepares ſome garland fine
To grace his lovely Valentine.
Tho' favour'd ſure in what I've ſaid,
By ſome I am but ill repaid;
For part of me you'll often view
With low-bred Nell or lofty Sue,
When pride, with his affected grace,
Appears in her moſt prudiſh face;
And Madam, with affected airs,
Treats thoſe with ſcorn on whom ſhe ſtares,
Then I to pleaſe my lady's whim
Am forc'd to lend the jade a limb.
Yet at my lot I'll not repine,
For t'other part doth often ſhine,
Sweet emblem of fair Delia's charms,
Who fondly takes me to her arms;
Oft in her bluſhing cheek I'm ſeen,
When ſhe trips o'er the flow'ry green;
And full as oft in her fond breaſt,
I taſte the ſweets of peace and reſt;
By this my change in diff'rent ſtations
You'll find out me from my relations.

P O E T R Y.

For the WEEKLY ENTERTAINER.

On the Falling of Rain after a dry Seafon.

OH! Gracious Heav'n! Oh friendly ſkies!
To you may grateful ſtrains ariſe!
What bleſſings crown this happy hour!
Oh welcome! ſweet refreſhing ſhow'r.
Like as the manna from the ſky
That did thine Iſrael once ſupply,
So theſe reviving drops of rain
Do cheer and cool the thirſty plain;
Whoſe verdure turn'd to ruſſet brown,
Scorch'd up with heat, did ſeem to moan.
But now the fields quite gay appear,
The panting herds enjoy the air;
Theſe healing drops with life reſtores,
All nature's languid, fainting pow'rs;
Improves each charming rural ſcene,
Which now looks ſmiling, freſh and green.
The huſbandman lifts up his head,
Now all his anxious fears are fled;
With joy he ſees the graſs revive,
And ev'ry uſeful plant to thrive.
The lab'ring poor exult with joy,
And ev'ry pleaſing hope employ;
To ſee fair plenty now appear,
In all her charms to bleſs the year.
Oh! may we ne'er forget to raiſe
Our grateful hearts, in ſongs of praiſe
To him who gave us life and breath,
And ſav'd us from eternal death;
Who lengthen'd out our fleeting days,
And round the world his gifts diſplays;
And ſheds the choiceſt bleſſings down,
Our lives with health and joy to crown;

His

His creatures wants he ſoon foreſees,
Send balmy health in every breeze.
'Tis he who bids the ſun to riſe,
And ſpread his glory thro' the ſkies;
The ſplendid beams he does diſplay,
Excludes the night, reſtores the day;
And warms the pregnant, teeming earth;
Matures the ſeed, and aids its birth;
And genial dew's ſoft falling ſhow'r
Feeds ev'ry herb, and tender flow'r,
Like glitt'ring gems, whoſe drops adorn
The roſy bluſhing face of morn!
While ſhe each riſing charm diſplays,
The heav'ns reſound with nature's praiſe!
From all the feather'd warbling choirs,
'Tis gratitude each note inſpires!
While herds and flocks all ſcatter'd round,
The vocal hills return the ſound;
Let men then join with one accord,
And praiſe the Univerſal Lord!

An ODE *to* SPRING.

HAIL lovely ſpring! whoſe pleaſing pow'r
Makes ev'ry meadow, field, and bow'r,
Look chearful, blithe, and gay;
Permit my humble muſe to ſing,
The pleaſures of ſweet genial ſpring,
In inexperienc'd lay.

The warbling choirs their anthems ring
To welcome thy return, Oh ſpring;
The hills their notes reſound;
The little, harmleſs, wand'ring bee,
Gathers his food from tree to tree,
And ev'ry flow'r around.

Again the prattling rivulets flow,
And lands that were o'erlaid with ſnow
Set forth thy pleaſing pow'r;
The pink, the roſe, the vi'lets blue,
And flow'rs of ev'ry varied hue,
Adorn the pleaſant bow'r.

The

The harmleſs lambkins ſkip and play,
And gambol in the ſun's bright ray,
Hard by the neighb'ring grove,
Where ſwains advance their nymphs to meet,
And with a gentle, modeſt greet,
Pronounce their tales of love.

The cuckoo on the hill or dale,
Delights the farmer with his tale,
And ev'ry gueſt around;
The verdant meads with paſture ſtor'd,
The hills a pleaſant ſight afford,
And all the ſcene around.

Sweet is thy reign, but ſhort thy ſtay,
So man's dull life ſlides faſt away,
And haſtens to its end;
Then let us while within our pow'r,
Improve each ſwiftly-fleeting hour,
That God may ſtand our friend.

Un Arpenteur de Pais.

Crediton, April 28, 1792.

S O N N E T.

Written at Bamborough Caſtle, appropriated by a Biſhop of Durham for the benevolent Purpoſe of reſcuing ſhip-wrecked Mariners.

YE holy tower's, that ſhade the wave-worn ſteep,
Long may ye rear your aged brows ſublime,
Tho', hurrying ſilent by, relentleſs time
Aſſail you, and the winter whirlwinds ſweep!

For, far from blazing Grandeur's crowded halls,
Here Charity has fix'd her choſen ſeat,
Oft liſtening tearful when the wild winds beat
With hollow bodings round your ancient walls:

And Pity, at the dark and ſtormy hour
Of midnight, when the moon is hid on high,
Keeps her lone watch upon the topmoſt tow'r,
And turns her ear to each expiring cry;

Bleſt if her aid ſome fainting wretch might ſave,
And ſnatch him cold and ſpeechleſs from the grave.